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Attorney Docket No.: 200208398-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Craig P. SAYERS **Confirmation No.:** 6141
Serial No.: 10/685,742 **Examiner:** Quochien B. VUONG
Filed: October 15, 2003 **Group Art Unit:** 2618
Title: CONTROLLED WIRELESS ACCESS TO A LOCAL AREA NETWORK

MAIL STOP APPEAL BRIEF - PATENTS

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APPEAL BRIEF - PATENTS

Sir:

This is an Appeal Brief in connection with the decisions of the Examiner in a Final Office Action mailed October 2, 2008, and in connection with the Notice of Appeal filed January 2, 2009. It is respectfully submitted that the present application has been more than twice rejected. Each of the topics required in an Appeal Brief and a Table of Contents are presented herewith and labeled appropriately.

TABLE OF CONTENTS

(1)	Real Party in Interest	3
(2)	Related Appeals And Interferences.....	3
(3)	Status of Claims	3
(4)	Status of Amendments.....	3
(5)	Summary of Claimed Subject Matter	3
(6)	Grounds of Rejection to be Reviewed on Appeal.....	6
(7)	Arguments	7
A.	The rejection of claims 1-15, 17-25, and 27-30 under 35 U.S.C. §103(a) as being unpatentable over Jones in view of Garg should be reversed.....	7
B.	The rejection of claims 16 and 26 under 35 U.S.C. §103(a) as being unpatentable over Jones in view of Garg in further view of Langensteiner should be reversed.....	14
(8)	Conclusion	15
(9)	Claim Appendix	16
(10)	Evidence Appendix	21
(11)	Related Proceedings Appendix	22

(1) Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, L.P.

(2) Related Appeals and Interferences

The Appellant is unaware of any appeals or interferences related to this case.

(3) Status of Claims

Claims 1-30 are pending in the present application of which claims 1, 7, 18, 27, and 30 are independent. Claims 1-30 are all rejected and are all appealed.

(4) Status of Amendments

No amendment was filed subsequent to the Final Office Action dated October 2, 2008.

(5) Summary of Claimed Subject Matter

The following claims are at least supported in the following sections of the Specification.

1. A method for controlling network access, comprising:
 providing a first area for wireless access to a local area network; See paragraph 19.
 and wirelessly transmitting within a second area and by using a line-of-sight beacon
information needed by a wireless device to gain access to the local area network, wherein at least
part of the first area is outside the second area. See paragraphs 19, 21, and 23.

4. The method of claim 1, wherein the first area is a transmission range of a component of the local area network, the second area is a transmission range of another component receiving the wirelessly transmitted information, and the second area is smaller than the first area. See paragraphs 21 and 23.

7. A method for accessing a network, comprising:

providing a first area for wireless access to a local area network; See paragraphs 19-20.

wirelessly transmitting, by using a line-of-sight beacon, information for controlling access to the local area network within a second area, wherein at least part of the first area is outside the second area; See paragraphs 19, 21, and 23.

receiving the information in a wireless device; See paragraphs 19-20.

initializing the wireless device to access the local area network using the information; and See paragraphs 19-20.

accessing the local area network with the wireless device at a location within the first area and outside the second area. See paragraphs 19-20.

11. The method of claim 7, wherein the first area is a transmission range of a component of the local area network, the second area is a transmission range of another component receiving the wirelessly transmitted information, and the second area is smaller than the first area. See paragraphs 21 and 23.

18. A system for providing wireless network access to at least one wireless device, comprising:

a network access circuit arrangement adapted to provide a wireless device with access to a local area network within a wireless-access area after the wireless device is configured for local area network access; and See paragraphs 19-21 and 23.

a configuration circuit arrangement, coupled to the network access circuit arrangement, the configuration circuit arrangement adapted to wirelessly transmit within a configuration-information area and by using a line-of-sight beacon information for controlling access to the local area network, wherein at least part of the wireless-access area is outside the configuration-information area. See paragraphs 19-21 and 23.

19. The system of claim 18, wherein the wireless access area is a transmission range of a component of the local area network, the configuration-information area is a transmission range of another component receiving the wirelessly transmitted information, and the configuration-information area is smaller than the wireless access area. See paragraphs 21 and 23.

27. A system for providing network access control information, comprising:

means for providing a first area for wireless access to a local area network; and See wireless base station 210 and paragraphs 19-21 and 23.

means for wirelessly transmitting within a second area and by using a line-of-sight beacon information needed by a wireless device to gain access to the local area network, wherein at least part of the first area is outside the second area. See configuration transmitter 215 and paragraphs 19-21 and 23.

29. The system of claim 27, wherein the first area is a transmission range of a component of the local area network, the second area is a transmission range of another component receiving the wirelessly transmitted information, and the second area is smaller than the first area. See paragraphs 21 and 23.

30. A system for accessing a network, comprising:

means for providing a first area for wireless access to a local area network; See wireless base station 210 and paragraphs 19-21 and 23.

means for wirelessly transmitting, by using a line-of-sight beacon, information for controlling access to the local area network within a second area, wherein at least part of the first area is outside the second area; See configuration transmitter 215 and paragraphs 19-21 and 23.

means for receiving the information in a wireless device; See wireless device 230, and paragraphs 19-21 and 23.

means for initializing the wireless device to access the local area network using the information; and See wireless device 230, and paragraphs 19-21 and 23.

means for accessing the local area network with the wireless device at a location within the first area and outside the second area. See wireless device 230, and paragraphs 19-21 and 23.

(6) Grounds of Rejection to be Reviewed on Appeal

A. Claims 1-15, 17-25, and 27-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Jones et al. US 6,879,600, (referred to as Jones) in view of Garg US 6,776,334, (referred to as Garg).

B. Claims 16 and 26 are rejected under 35 U.S.C. §103(a) as being unpatentable over Jones et al. in the view of Garg and further in view of Langensteiner et al. US 2000/0194141, (referred to as Langensteiner).

(7) Arguments

A. The rejection of claims 1-15, 17-25, and 27-30 under 35 U.S.C. §103(a) as being unpatentable over Jones in view of Garg should be reversed.

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385 (2007):

“Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” Quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966).

According to the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of *KSR International Co. v. Teleflex Inc.*, Federal Register, Vol. 72, No. 195, 57526, 57529 (October 10, 2007), once the *Graham* factual inquiries are resolved, there must be a determination of whether the claimed invention would have been obvious to one of ordinary skill in the art based on any one of the following proper rationales:

(A) Combining prior art elements according to known methods to yield predictable results; (B) Simple substitution of one known element for another to obtain predictable results; (C) Use of known technique to improve similar devices (methods, or products) in the same way; (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (E) “Obvious to try”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) Known work in one field of endeavor may prompt variations of it for use in either the same

field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385 (2007).

Furthermore, as set forth in *KSR International Co. v. Teleflex Inc.*, quoting from *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006), “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasonings with some rational underpinning to support the legal conclusion of obviousness.”

Furthermore, as set forth in MPEP 2143.03, to ascertain the differences between the prior art and the claims at issue, “[a]ll claim limitations must be considered” because “all words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385.

If the above-identified criteria and rationales are not met, then the cited references fail to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited references.

Claims 1-15, 17-25, and 27-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Jones in view of Garg.

Independent claims 1, 7, 18, 27, and 30

Independent claim 1 recites, "wirelessly transmitting within a second area and by using a line-of-sight beacon information needed by a wireless device to gain access to a local area network."

Independent claim 7 recites, "wirelessly transmitting, by using a line-of-sight beacon, information for controlling access to the local area network within a second area, wherein at least part of the first area is outside the second area."

Independent claim 18 recites, "wirelessly transmit within a configuration-information area and by using a line-of-sight beacon information for controlling access to the local area network, wherein at least part of the wireless-access area is outside the configuration-information area."

Independent claim 27 recites, "wirelessly transmitting within a second area and by using a line-of-sight beacon information needed by a wireless device to gain access to the local area network."

Independent claim 30 recites, "wirelessly transmitting, by using a line-of-sight beacon, information for controlling access to the local area network within a second area, wherein at least part of the first area is outside the second area."

The rejection asserts a beacon disclosed in column 25, lines 1-10 of Jones discloses wirelessly transmitting into a second area information needed by a wireless device to gain access to a local area network (LAN). However, as admitted by the Examiner in the rejection, Jones fails to teach using a line-of-sight beacon to transmit the information into the second area. The rejection then asserts Garg discloses the claimed line-of-sight beacon and it would have been

obvious to adapt and combine the line-of-sight beacon of Garg with Jones to achieve the claimed invention in order to provide access information to the LAN within a room or section of the building.

Firstly, the motivation for the combination is that it would have been obvious to combine in order to provide access information to the LAN within a room or section of the building. However, Jones, without using a line-of-sight beacon, already discloses providing beacon information to a wireless LAN (WLAN) within a room or section of a building. Accordingly, it would not have been obvious to one of ordinary of skill in the art to modify Jones to achieve a result that is already achieved by Jones. In particular, the rejection relies on an arbitration scheme of Jones disclosed in column 25, lines 5-58 to reject the claimed features. In this passage, Jones discloses that a BTS in a CDMA cellular network transmits a beacon signal. Jones also discloses that an 802.11 WLAN also transmits a beacon signal. A mobile station 116 can switch between the CDMA and 802.11 WLAN depending on the received signal strength of each beacon. As described, the mobile station 116 may receive both beacons if it is in proximity to both the cellular network and the WLAN. To determine which network to use, a relative signal strength is calculated from the signal strength of both beacons. The signal strength is compared to a threshold. Depending on the comparison, the mobile station 116 will use either the CDMA cellular network or the 802.11 WLAN. Thus, the beacon transmitting from the WLAN in Jones, which the Examiner is interpreting to be the claimed information wirelessly transmitted into the second area to gain access to the LAN, is already used to provide access to a LAN, which can be within a room or section of a building. Thus, there would be absolutely no

reason for one of ordinary skill in the art to modify Jones to provide access to a LAN, which can be within a room or section of a building.

Secondly, the proposed modification of Jones to include the line-of-sight beacon of Garg would render the prior art invention being modified unsatisfactory for its intended purpose. Accordingly, the rejection fails to establish a *prima facie* case of obviousness. *See* MPEP 2143.01. *See, e.g.,* *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

The line-of-sight beacon of Garg is an infra-red beacon that is designed to be used within a room and is blocked by walls. *See* Garg, column 5, lines 5-13. Thus, the infra-red beacon of Garg is similar to a conventional infra-red remote control for a TV that does not work unless the remote control is pointed at the infra-red receiver of the TV and the remote control is in very close proximity, such as within the room, of the TV. If the infra-red beacon of Garg was used as the 802.11 WLAN beacon of Jones as required by the combination, the signal strength of the infra-red beacon of Garg would hardly ever be detected by the mobile station 116 of Jones. As a result, the mobile station 116 would never switch to the WLAN instead of the CDMA cellular network, which frustrates the intended purpose of Jones to provide handoff between different networks. *See* Jones, Abstract. The mobile station 116 of Jones would only be able to detect the infra-red signal of a line-of-sight beacon in the very limited case when it happens to be in the line-of-sight and in close proximity without being blocked by walls or other structures. If Jones is only operable to perform handoff in this very limited case, Jones is rendered unsatisfactory to its intended purpose of being able to perform handoff when the mobile station 116 is within

range of a radio frequency WLAN and based on the signal strength comparisons described above.

Thirdly, Garg does not teach wirelessly transmitting, by using a line-of-sight beacon, information needed by a wireless device to gain access to a local area network. Rather, in reference to Fig. 1, Garg teaches positioning infrared beacons 30(a)-30(d) within each room of the home 18 for generating a modulated infrared light signal. Each beacon has a unique signature pattern different from the signature patterns of other infrared beacons 30(a)-30(d), whereby because infrared illumination is blocked by typical walls, the regions around each infrared beacon 30 in which the signature pattern is detectable is typically limited to the room in which the infrared beacon 30 is located. *See* Garg, column 5, lines 5-13. By using the unique signature pattern of each of the infrared beacons 30(a)-30(d), a monitoring appliance 28 is able to determine a location of a mobile unit 12 and activate an alarm if the mobile unit 12 is located in a particular location. Garg at column 5, lines 28-41.

An access to a network in Garg is performed by interactions through a mobile unit 12 and a wireless network access point 24. The infrared beacons 30(a)-30(d) merely use the established network access through the wireless network access point 24 for transmitting detected signature patterns for an alarm determination by the location monitoring appliance 28. The infrared beacons 30(a)-30(d) are not used to provide access to a wireless local area network in another region. Thus, neither Jones nor Garg teach or suggest wirelessly transmitting, by using a line-of-sight beacon, information needed by a wireless device to gain access to a local area network.

Dependent claims 4, 11, 19, 23, and 29

Claim 4 recites, "the first area is a transmission range of a component of the local area network, the second area is a transmission range of another component receiving the wirelessly transmitted information, and the second area is smaller than the first area." Dependent claims 11, 19, 23, and 29 recite similar features. Jones in view of Garg fails to teach or suggest these features.

The rejection alleges Jones discloses these features. As best understood, the rejection asserts the beacon of the 802.11 WLAN of Jones provides the claimed transmission range of the first area, and the BTS providing the CDMA beacon of Jones is allegedly the claimed transmission range of the second area. The transmission range of the BTS CDMA beacon of Jones may be asserted as providing the transmission range of the second area. However, the BTS CDMA beacon of Jones does not receive the wirelessly transmitted information. Instead, it is only transmitting a signal to be received by the mobile station 116 to measure signal strength. Thus, the Jones fails to teach a transmission range of second area is a transmission range of a component receiving the wirelessly transmitted information.

Jones also fails to teach or suggest the second area is smaller than the first area. Instead, the CDMA network of Jones, which is asserted as the claimed second area, is larger than the WLAN area, which is asserted as the first area.

For at least these reasons, the rejection of claims 1-15, 17-25, and 27-30 fails to establish a *prima facie* case of obviousness, and the rejection should be reversed.

B. The rejection of claims 16 and 26 under 35 U.S.C. §103(a) as being unpatentable over Jones in view of Garg in further view of Langensteiner should be reversed.

Langensteiner was cited as allegedly disclosing a beacon near a point of sale terminal.

However, Langensteiner fails to teach or suggest the features of the independent claims described above. Accordingly, the rejection of claims 16 and 26 should be reversed.

PATENT

Atty Docket No.: 200208398-1

App. Ser. No.: 10/685,742

(8) Conclusion

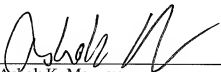
For at least the reasons given above, the rejection of claims 1-43 described above and the objection to the Abstract described above should be reversed and these claims allowed.

Please grant any required extensions of time and charge any fees due in connection with this Appeal Brief to deposit account no. 08-2025.

Respectfully submitted,

Dated: April 2, 2009

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(9) Claim Appendix

1. (Previously Presented) A method for controlling network access, comprising:
providing a first area for wireless access to a local area network; and
wirelessly transmitting within a second area and by using a line-of-sight beacon
information needed by a wireless device to gain access to the local area network, wherein at least
part of the first area is outside the second area.
2. (Original) The method of claim 1, wherein transmitting the information comprises
transmitting encryption key information.
3. (Original) The method of claim 1, wherein transmitting the information comprises
transmitting access point information.
4. (Previously Presented) The method of claim 1, wherein the first area is a transmission
range of a component of the local area network, the second area is a transmission range
of another component receiving the wirelessly transmitted information, and the second
area is smaller than the first area.
5. (Previously Presented) The method of claim 1, wherein transmitting the information
comprises transmitting the information using an optical beacon.
6. (Original) The method of claim 5, wherein transmitting the information for controlling
access to the local area network comprises transmitting the information using an infrared
beacon.
7. (Previously Presented) A method for accessing a network, comprising:
providing a first area for wireless access to a local area network;

wirelessly transmitting, by using a line-of-sight beacon, information for controlling access to the local area network within a second area, wherein at least part of the first area is outside the second area;

receiving the information in a wireless device;

initializing the wireless device to access the local area network using the information; and

accessing the local area network with the wireless device at a location within the first area and outside the second area.

8. (Original) The method of claim 7, wherein transmitting the information comprises transmitting an encryption key.

9. (Original) The method of claim 7, wherein transmitting the information comprises transmitting an access point identifier.

10. (Original) The method of claim 7, wherein transmitting the information comprises transmitting information that allows the wireless device to obtain an encryption key.

11. (Previously Presented) The method of claim 7, wherein the first area is a transmission range of a component of the local area network, the second area is a transmission range of another component receiving the wirelessly transmitted information, and the second area is smaller than the first area.

12. (Original) The method of claim 7, wherein the second area is within the first area.

13. (Original) The method of claim 7, wherein the second area is outside the first area.

14. (Original) The method of claim 7, wherein transmitting the information for controlling access to the local area network comprises transmitting the information using an optical beacon.

15. (Original) The method of claim 7, wherein the second area comprises a secure area.

16. (Original) The method of claim 7, wherein the second area comprises an area near a point of sale terminal.

17. (Original) The method of claim 7, further comprising charging a fee for accessing the local area network.

18. (Previously Presented) A system for providing wireless network access to at least one wireless device, comprising:

a network access circuit arrangement adapted to provide a wireless device with access to a local area network within a wireless-access area after the wireless device is configured for local area network access; and

a configuration circuit arrangement, coupled to the network access circuit arrangement, the configuration circuit arrangement adapted to wirelessly transmit within a configuration-information area and by using a line-of-sight beacon information for controlling access to the local area network, wherein at least part of the wireless-access area is outside the configuration-information area.

19. (Previously Presented) The system of claim 18, wherein the wireless access area is a transmission range of a component of the local area network, the configuration-information area is a transmission range of another component receiving the wirelessly transmitted information, and the configuration-information area is smaller than the wireless access area.

20. (Original) The system of claim 18, wherein the configuration-information area is within the wireless access area.

21. (Original) The system of claim 18, wherein the configuration-information area is outside the wireless-access area.

22. (Original) The system of claim 18, wherein the configuration circuit arrangement is adapted to transmit encryption key information.

23. (Previously Presented) The method of claim 30 wherein the first area is a transmission range of a component of the local area network, the second area is a transmission range of another component receiving the wirelessly transmitted information, and the second area is smaller than the first area.

24. (Original) The system of claim 18, wherein the configuration circuit arrangement is adapted to transmit information for controlling access to the local area network using an optical beacon.

25. (Original) The system of claim 18, wherein the configuration-information area is within a secure area.

26. (Original) The system of claim 18, wherein the configuration area is in proximity to a point of sale terminal.

27. (Previously Presented) A system for providing network access control information, comprising:

means for providing a first area for wireless access to a local area network; and

means for wirelessly transmitting within a second area and by using a line-of-sight beacon information needed by a wireless device to gain access to the local area network, wherein at least part of the first area is outside the second area.

28. (Original) The system of claim 27, further comprising means for charging a fee in association with access by the first device to the local area network.

29. (Previously Presented) The system of claim 27, wherein the first area is a transmission range of a component of the local area network, the second area is a transmission range of another component receiving the wirelessly transmitted information, and the second area is smaller than the first area.

30. (Previously Presented) A system for accessing a network, comprising:

means for providing a first area for wireless access to a local area network;

means for wirelessly transmitting, by using a line-of-sight beacon, information for controlling access to the local area network within a second area, wherein at least part of the first area is outside the second area;

means for receiving the information in a wireless device;

means for initializing the wireless device to access the local area network using the information; and

means for accessing the local area network with the wireless device at a location within the first area and outside the second area.

PATENT

Atty Docket No.: 200208398-1
App. Ser. No.: 10/685,742

(10) Evidence Appendix

None.

PATENT

Atty Docket No.: 200208398-1
App. Ser. No.: 10/685,742

(11) Related Proceedings Appendix

None.